

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DON RYAN**, on January 24, 2005 at 3:15 A.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Don Ryan, Chairman (D)  
Sen. Gregory D. Barkus (R)  
Sen. Jerry W. Black (R)  
Sen. Jim Elliott (D)  
Sen. Kim Gillan (D)  
Sen. Bob Hawks (D)  
Sen. Sam Kitzenberg (R)  
Sen. Jesse Laslovich (D)  
Sen. Jeff Mangan (D)  
Sen. Dan McGee (R)  
Sen. Bob Story Jr. (R)

**Members Excused:** None.

**Members Absent:** None

**Staff Present:** Lois O'Connor, Committee Secretary  
Connie Erickson, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 147, 1/20/2005  
Executive Action: None.

**{Tape: 1; Side: A; Time Counter: 1.1}**

**HEARING ON SB 147**

**Opening Statement by Sponsor:**

**SEN. DON RYAN, SD 10**, said that during the 2003 Session, SB 424 was passed which stated that employees who were employed under any federal program were not eligible to have their retirement paid out of state funds. By taking that money away from local governments, some federal employees were laid off because the money and resources were not there. That money was then transferred to the general fund in the form of increases in school district schedules.

**SEN. RYAN** felt that this was an issue of local control. He said that some districts were paying retirement completely out of the federal funds while others were using it to maximize their services to students. Because of the harm that this practice has caused school districts, SB 147 revises the way in which school districts charge employer contributions for retirement.

**{Tape: 1; Side: A; Time Counter: 3.8}**

**Proponents' Testimony:**

**Lance Melton, MTSBA, and Madalyn Quinlan, OPI**, provided written comments in support of SB 147.

**EXHIBIT**(eds18a01)

**EXHIBIT**(eds18a02)

**{Tape: 1; Side: A; Time Counter: 8.0}**

**Erik Burke, MEA-MFT**, said that SB 147 reverses the course of school defunding that began in the 2003 Session. During the 2003 Session, SB 424 was passed in desperate times and called for the repeal of utilizing county retirement levies for federally funded positions. According to the fiscal note in the last session, Montana schools lost approximately \$9 million in budgeting authority through the county retirement levy. The \$9 million could have gone toward investments in educational programs, gifted and talented spending, before- and after-school programs, tutoring, and teacher salaries. In the long term, if the language remains as it is currently, schools stand to lose approximately \$14 million years per year.

**Mr. Burke** said that the loss of this funding has been devastating to Montana schools, so much so, that impact-aid schools took the

issue to Court who rejected the case to the U.S. Department of Education. The U.S. Department of Education ruled in favor of the impact-aid districts and stated that the act taken last session was illegal, that it did not comply with impact-aid law, and therefore, jeopardizes impact-aid funding in the state. **Governor Brian Schweitzer** has withdrawn Montana's contest of that decision which leaves Montana trying to reverse the law to get back into compliance with impact-aid law and avoid future compliance issues. SB 147 addresses bad policy and attempts to fix it.

**{Tape: 1; Side: A; Time Counter: 12.5}**

**Lynda Brannon, MT Association of School Business Officials and the Indian Impact Schools of MT**, said that SB 424 passed in the last session took dollars away from special education students and services to Title I children. The impact-aid law states that a state cannot force a school district to use impact-aid dollars in any way that would reduce their state aid. By the state redirecting GTB subsidies to the retirement fund made it a violation of the impact-aid laws.

**Ms. Brannon** said that impact-aid schools appealed to the U.S. Department of Education who upheld the appeal and the impact-aid schools filed a lawsuit with the District Court. The District Court had no jurisdiction over a federal law, and they appealed to the Supreme Court. Shortly after school budgets were adopted, the Supreme Court reversed its decision. As a result, school districts could not use their levies and were forced to use their impact-aid funds. Montana's Attorney General is going to pull out its Supreme Court-level appeal and reinstate the injunction until the law can be changed.

**{Tape: 1; Side: A; Time Counter: 19.2}**

**Darrell Rud, School Administrators of MT (SAM)**, said that by August of 2003 after SB 424 was passed, school administrators saw the effects of that legislation and what it was doing to intended federal resources. One can argue that federal intrusion into education in every state is at an unprecedented level. However, Congress said that schools that need help, should get help. When money is taken from schools that need it the most, it defeats the purpose of the intended help for schools.

**{Tape: 1; Side: A; Time Counter: 20.4}**

**Gwen Anderson, Business Manager, Browning Public Schools**, said that SB 424 cost Browning Public Schools \$750,000 last year. The districts that were most heavily impacted by the shift in funding were the larger school districts and schools on or near Indian

reservations. These schools are the same schools that failed to make adequate yearly progress. The Browning Public Schools believe that the dollars that were impacted by the shift in funding directly affects the students who most need the services provided by those federal funds. **Ms. Anderson** added that for years, school districts have made the decision as to whether they are going to pay retirement costs out of federal dollars or their own retirement funds. Trustees at the local level know best how to make that decision. If SB 147 is passed, the Legislature will pass that responsibility back to local trustees where it belongs.

**{Tape: 1; Side: A; Time Counter: 25.4}**

**Opponents' Testimony:**

**Mary Wittinghill, Montana Taxpayers Association**, provided a set of tables prepared as the discussion on school funding was concluding during the 2003 Session.

**EXHIBIT** (eds18a03)

**Ms. Wittinghill** agreed that during the 2003 Session, there was less money and attempts were made to analyze and make additional money available for schools. SB 424 increased budget authority, entitlements, and ANB and decreased the retirement funds from retirement money. However, it was also predicated that there would a huge flow of federal money coming to the state through other federal programs. She said that no one is disputing that the federal government has inadequately funded what they are asking the state to do, and it is putting an additional burden on local taxpayers. However, the state took HB 124 money to use as a backfill for certain tax changes to minimize its portion. As a result, taxpayers saw a slight increase but the amount varied from county to county depending upon how much their local retirement levy was and how much HB 124 money they had.

**Ms. Wittinghill** said that putting everything back the way it was would shift the cost to local taxpayers through county mills and increase the county retirement levies by \$20 million a biennium. She requested that the Committee consider the affects of trying to undo what has already been done. She also requested that the Committee consider that as federal funds continue to increase and if money is not set aside to pay for the full salary and benefits of those employees, the state is going to continue to see district levy increases.

**Informational Testimony:** None.

**{Tape: 1; Side: B; Time Counter: 2.4}**

**Questions from Committee Members and Responses:**

**SEN. STORY** asked **Mr. Melton** to discuss the increase in ANB funding under SB 424. **Mr. Melton** said that schools received increased funding overall but not from the state. The state would normally fund increases in basic and per-ANB entitlements by increased support under direct state aid and GTB formulas to increase funding for schools. SB 424 took the money that was collected under HB 124. School districts were told that it would be stability for the cities and counties and that they would get that money back with a slight growth. SB 424 was unprecedented in that the Legislature turned completely away from its funding formula and raided an account in order to fund the increases in the basic and per-ANB entitlements. Total funds committed by the state in the present biennium for K-12 public education was approximately \$12.5 million less than the previous biennium. **SEN. STORY** asked if the drop in total state funding to districts was a result of SB 424 or declining enrollments. **Mr. Melton** said that if no bill were introduced, declining enrollments would have taken away money just like it is currently. However, the Legislature has an obligation to meet its constitutional responsibilities. When a funding bill is introduced that does not address the issue, it is a matter of semantics as to whether the drop is due to declining enrollment or SB 424. **SEN. STORY** asked if it were true that SB 424 took 15% of the federal money and moved it around in district general funds. **Mr. Melton** said that the anticipation was that federal funds would be growing so much that the state could afford to take 15% of it to pay for retirement costs instead of increasing services to children. However, as large as the increase was, it was not as large as the increased mandates imposed on schools.

**SEN. STORY** asked how much money was involved in the impact-aid portion of the federal funds. **Ms. Quinlan** said that the portion is \$1 million a year state and \$4 million a year total--\$3 million county and \$1 million state.

**SEN. GILLAN** requested information on how many district were using their federal grant dollars to pay retirement before the law was changed. She asked what happens when impact-aid districts do not have the tax base to increase mill levies. **Ms. Quinlan** said that impact-aid districts, such as Browning, would charge retirement costs for employees to the Glacier County retirement levy. To the extent that the county tax base was less than the statewide guarantee level, the county would receive GTB. **SEN. GILLAN** requested information on which counties were eligible for GTB and to what extent they are eligible for each mill levy, and she asked about the percentage increase anticipated in federal

dollars coming to Montana this year. **Ms. Quinlan** said that the increases in federal funding are 8% for 2005, 3% in 2006, and 5% in 2007. Impact-aid would increase approximately 1% and there would be a 1.3% reduction in ANB per year.

**SEN. STORY** asked if OPI was attributing all federal money to salaries. **Ms. Quinlan** said that OPI is anticipating 80% of the increased federal money to be spent on salaries and 20% for other expenditures.

**SEN. BARKUS** asked why the fiscal note was not signed. **SEN. RYAN** said that he could not guarantee how much money will be available, who was going to use the money, and what it would be used for. He would trust the judgment of the people who put the fiscal note together.

*{Tape: 1; Side: B; Time Counter: 16.6}*

**Closing by Sponsor:**

**SEN. RYAN** said that as school districts start feeling the crunch of meeting "No Child Left Behind", they start looking for teacher aides and specialized teachers to help with students. If they could hire one more aide or specialist by using retirement money, it gives them the opportunity to meet "No Child Left Behind".

**SEN. RYAN** said that during testimony on SB 424, charts showed that the state was going to see a huge influx of federal money and recent predictions from Congress indicate that all states would have to start cutting back because of an unanticipated deficit. He felt that local school boards were very conservative, and the Legislature needed to give them the flexibility to use the available money as wisely as possible to meet the demands that they have. **SEN. RYAN** requested that the Committee's help in working on the bill.

*{Tape: 1; Side: B; Time Counter: 21.2}*

**COMMITTEE BUSINESS:**

**SEN. STORY** said that the Committee needed to begin reviewing funding formulas for the future school funding system because the present system is unacceptable to the Court. His concern as the Committee goes through that process is that it feels that it has input and some ownership of the end product. Since it will be a complex process, he and **SEN. RYAN** discussed how the Committee should proceed.

**SEN. STORY** said that Committee members have some idea of how a funding formula should look but more information is needed to help them make decisions. He felt that the first step needs to be, What does the Committee want to do and what are the feelings of the members as a whole? He suggested starting with a roundtable discussion, with the help of a facilitator if needed, to guide the Committee so that it does not replot old ground. He felt that the Committee believed that a basic system is facilities, people, materials, transportation, etc. that makes a school district function well, and that it needed to begin reviewing existing data so that the Committee could see what is needed to have not only an equitable distribution of funds but a distribution that works.

Following a brief discussion, Committee members agreed that a roundtable discussion would be a good idea and that it would be beneficial if members brought ideas to the table, perhaps some that are not their own.

**SEN. GILLAN** requested a compendium on how the surrounding states fund schools.

**SEN. RYAN** will schedule one day a week to work on the agenda and discuss the issues.

**ADJOURNMENT**

Adjournment: 4:10 P.M.

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SEN. DON RYAN, Chairman

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LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

**EXHIBIT ([eds18aad0.PDF](#))**